

REMARKS

The Applicant acknowledges the indicated allowability of Claims 37, 50 and 55-58.

Claims 1-62 are pending with entry of this paper.

Claims 1-36, 38-49, 51-54 and 59-62 stand rejected.

Rejections under 35 U.S.C. § 103(a)

1. Zendle, Sinha and Lampe

At paragraph 2, spanning pages 2-8 of the Office Action, the Office Action improperly rejected Claims 1-3, 8-10, 21-28, 30, 38-41, 43 and 59-62 as being unpatentable over U.S. Patent No. 6,865,170 to Zendle in view of U.S. Patent No. 6,944,188 to Sinha in further view of U.S. Publication No. 2002/0114346 to Lampe.

First, the Office Action acknowledges that “Zendle fails to explicitly disclose a redundant communication link between the remote communication link interfaces of the hub and each node.” The applicant also notes that Zendle does not disclose a redundant communication link interface, nor does the Office suggest it does. The Office Action, however, incorrectly relies on Sinha to correct this deficiency. For example, the Office Action states that the “standby antenna includes a redundant communication link interface;” however, the redundant communication link as provided in Claim 1 requires “a redundant communication link interface including a redundant modem distinct from said plural modems” and “for each node, a redundant communication link is established between the remote communication link interface at the node and the remote communication link interface at the hub”.

Applicant cannot find any disclosure in Sinha of the “standby antenna” establishing a redundant communication link with a redundant communication link interface of the hub. For example and with reference to the portions of Sinha cited by the Examiner, Sinha discloses an arrangement of links to a plurality of users where a base station 300 transmits information to the plural users via an antenna structure 302. The antenna structure 302 is directional in nature so that channels are limited to particular transmission sectors 340, 350, 360. Sinha discloses at least one directional antenna for each sector; however, there may be one or more standby antennas for each sector. *See* Col. 7, line 61 – Col. 8, line 11. Sinha, however, does not disclose or teach that this standby antenna provides a redundant communication link nor does Sinha disclose that the standby antenna establishes a redundant communication link between a remote communication link interface at the node and a remote communication link interface at the hub. Thus, it is clear that Sinha fails to disclose either “a redundant communication link” or a “redundant communication link interface including a redundant modem distinct from said plural modems” and “for each node, a redundant communication link is established between the remote communication link interface at the node and the remote communication link interface at the hub.” Rather, Sinha merely provides a disclosure of a standby antenna.

It is telling that Applicant cannot find any teaching, suggestion or disclosure in Sinha of the aforementioned elements; and the Examiner has not directed Applicant’s attention to any portion in Sinha reciting otherwise. It is black letter law that an examiner

must provide specific factual findings predicated on sound technical and scientific reasoning to support a conclusion of common knowledge (*See In re Soli*, 317 F.2d 941, 946, 137 USPQ 797, 800 (CCPA 1963), and to render obvious specific elements of claims by such common knowledge without any evidentiary support is inappropriate. *See In re Ahlert*, 424 F.2d 1088, 1092, 165 USPQ 418, 421 (CCPA 1970).

Therefore, Sinha and Zendle alone or in combination do not disclose a redundant communication link interface at the hub, do not disclose a redundant communication link between the redundant communication link interface at the hub and a redundant communication link at the interface, and the Office Action has failed to provide *prima facie* support showing otherwise.

The Office Action goes further and acknowledges additional deficiencies of the cited prior art by stating that “Zendle fails to explicitly disclose a plurality of primary communication link interfaces each including a modem” but asserts that it would have been obvious in view of the interfaces shown in Figure 6B for Hub IDUs to include a modem for each primary communication link interface. Once again, the Office must provide specific factual findings predicated on sound technical and scientific reasoning to support a conclusion of common knowledge and to render obvious such an element without any evidentiary support is improper.

To support yet another deficiency in the cited prior references, the Office Action acknowledges that “Zendle and Sinha fail to explicitly disclose a redundant

communication link interface including a redundant modem distinct from said plural modems” and incorrectly relies on Lampe to correct this deficiency. For example, the Office Action states that the “Lampe teaches a redundant communication link interface including a redundant modem distinct from said plural modems” so as to provide a redundant modem usable as a standby modem to support the transfer of communication data when the plural modems are unavailable.

This assertion is without any evidentiary support in Lampe.

For example, Lampe discloses a wireless client 110 that utilizes its radio interface 130 to access a first host 132 over a wireless data network 134 to communicate with servers 114 over the Internet 126 through a cluster 128 acting as an interface between the Internet connection and the local area network 118. *See* paragraph [0016]. The radio interface modems 130 in the client 110 possess primary and secondary operational configurations to permit modem negotiations during call set-up. *See* paragraph [0020], first sentence. The cluster 128 includes a modem pool functionality comprising a primary modem pool 152 and a secondary modem pool 154. *See* paragraph [0019]. The cluster and hence the modem pools are provided on the server 114 side of an organization 112. *See* Figure 2, paragraph [0016]. There is, however, no disclosure of a hub comprising a redundant communication link interface including a redundant modem distinct from said plural modems. The radio interface modem 130 of Lampe simply does not possess any type of redundant modem distinct therefrom and the disclosure of a secondary modem pool on the server side of the Lampe system cannot provide *prima*

facie support for this element. Therefore, Sinha, Zendle and Lampe, alone or in combination, do not disclose a redundant communication link interface at the hub, do not disclose a redundant communication link between the redundant communication link interface at the hub and a redundant communication link at the interface. The Office's rejection of Claims 1, 25 and 38, which require these elements, is improper and must be withdrawn.

Claims 2-3, 8-10, 21-24, 26-28, 30, 39-41, 43 and 59-62 depend from Claims 1, 25 and 38 and thus are patentable over the cited art without recourse to the additional patentable subject matter recited therein.

2. Zendle, Sinha, Lampe and Stanwood

The Office improperly rejected Claims 4-7 as being unpatentable over Zendle, Sinha and Lampe as applied to Claim 1 and further in view of Stanwood et al.

The Office's addition of Stanwood does nothing to obviate the deficiencies of Zendle, Sinha and Lampe as discussed previously. For example, it appears that the Office is citing Stanwood for its alleged teachings of operation in a millimeter frequency range (See Col. 10, ll. 4-6) and adaptive time division duplexing (Col. 29, ll. 12-16). While these portions of Stanwood do indeed recite these catch words, the disclosure of Stanwood is directed to a system and method not combinable with the inventions disclosed by Zendle, Sinha, and Lampe. For example, Stanwood is directed to a broadband wireless communication system for linking plural customers and businesses

together to share data via a medium, i.e., the Internet, satellite, PSTN. (Col. 4, ll. 55-63). Applicant, however, cannot find any disclosure or teaching regarding standby aspects of Stanwood, redundancy aspects, etc. and respectfully requests evidence in Stanwood of such teachings. The mere disclosure of the aforementioned catch words in Stanwood does not provide *prima facie* support of a rejection under 35 U.S.C. § 103(a) without a teaching or motivation to combine the references. Thus, without factual findings predicated on sound technical and scientific reasoning to support a conclusion of obviousness, the Office has not met its burden and the rejection of Claims 4-7 is improper and must be withdrawn.

3. Zendle, Sinha, Lampe, Carney

The Office improperly rejected Claims 11-20, 29, 31-36, 42, 44-49, 51-54 as being unpatentable over Zendle, Sinha and Lampe as applied to Claim 10 above and further in view of Carney.

The Office addition of Carney does nothing to obviate the deficiencies of Zendle, Sinha and Lampe as discussed previously. For example, it appears that the Office is citing Carney for its alleged teachings of a redundant communication link interface connected to a second communication processor (Fig. 1 and Col. 3, ll. 57-59). This portion recited by the Office states “[s]uch a system architecture also exhibits scalability, in the sense that additional DSP processors may be added to support additional channels as traffic increases, without having to change the RF front end configuration.” It appears

that this rejection is predicated upon the disclosure of plural DSPs to teach the connection of a redundant communication link interface connection to a second processor. This is incorrect. First, Carney teaches plural DSPs to function as demodulators and/or modulators (See Figure 1 and Col. 4, lines 28-43) whereby the DSPs may be programmed to demodulate or modulate a signal. There is not a one-to-one correspondence between the number of DSPs and the number of channel signals and the DSPs may each process a number of digital channel signals at the same time. (Col. 5, lines 36-62). Carney, however, is silent regarding any redundancy aspect to any type of communication link interface or any such interface connected to a second processor. Thus, the silence of such a disclosure cannot provide a *prima facie* basis for the rejection and the mere disclosure of plural DSPs cannot similarly provide such a basis without further evidence in Carney (of which there is none!). Thus, without factual findings predicated on sound technical and scientific reasoning to support a conclusion of obviousness, the Office has not met its burden and the rejection of Claims 11-20, 29, 31-36, 42, 44-49, 51-54 are improper and must be withdrawn.

Conclusion

Applicant believes that the present application is in condition for allowance and, as such, it is earnestly requested that Claims 1-62 be allowed to issue in a U.S. Patent.

If the Examiner believes that an in-person or telephonic interview with the Applicant's representatives will expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned agents of record.

While an extension of time is not deemed necessary, the Office is requested and hereby authorized to charge the appropriate extension-of-time fees against **Deposit Account No. 04-1679** to Duane Morris LLP.

Respectfully submitted,



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